



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,668	05/17/2006	Osamu Aoki	P06,0070	9380
26574	7590	09/26/2008		
SCHIEF HARDIN, LLP PATENT DEPARTMENT 6600 SEARS TOWER CHICAGO, IL 60606-6473			EXAMINER WILLIAMS, JEFFERY L.	
			ART UNIT 2137	PAPER NUMBER
			MAIL DATE 09/26/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/579,668

Applicant(s)

AOKI ET AL.

Examiner

JEFFERY WILLIAMS

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 May 2006 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 352007
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claims 1 – 14 are cancelled, claims 15 – 28 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15 – 20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Specifically, claims 15 – 20 are recitations consisting of software per se. As software fails to fall within any of the statutory categories of invention, these claims are rejected as being non-statutory.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15 - 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 15, the recitation of “...software that references, in said determining of whether said input/output data is invalid data, said determination rules that correspond to attribute information acquired in the acquisition of attribute information determines whether said input/output data is invalid” in nonsensical (see last 4 lines). Specifically, the claim is grammatically improper. Thus, it is unclear as to what the clause “determines whether said input/output data is invalid” is modifying. For the purpose of examination, the examiner presumes the applicant to recite “...software that references, in said determining of whether said input/output data is invalid data, said determination rules that correspond to attribute information acquired in the acquisition of attribute information”.

Regarding claim 16, the recitation “...wherein **said software that determines authorization performs this** before it is determined whether said input/output data is invalid data, and when it is determined in the determining authorization that there is no authorization to use said computer, said program causes said computer to not execute at least one of the following: **acquiring attribute information** and said determination of whether said input/output data is invalid data” is unclear. Specifically, “**said software that determines authorization**” lacks antecedent basis within the claim. Furthermore, it is unclear as to what “**this**” is referring to within the claim. Finally, the claim appears either to be incomplete or inconsistent as the recitation of “**acquiring attribute information**” appears to be a necessary and prior element for the software to “determine authorization”. Therefore, it is unclear as to how the software is able to not

1 execute **“acquiring attribute information”** when such has apparently already been
2 executed. For purpose of examination, the examiner presumes the applicant to recite,
3 *“wherein software determines authorization before it is determined whether said*
4 *input/output data is invalid data, and when it is determined in the determining*
5 *authorization that there is no authorization to use said computer, said program causes*
6 *said computer to not execute said determination of whether said input/output data is*
7 *invalid data”*.

8
9 Regarding claim 17, the recitation *“...said determining whether operation is*
10 *unusual that that operation is unusual”* is unclear. Specifically, it is unclear as to what
11 **“that”** is referencing. For purpose of examination, the examiner presumes the
12 applicant to recite *“...said determining whether operation is unusual that operation is*
13 *unusual.”*

14
15 Regarding claim 20, the recitation, *“...software that references a determination-*
16 *rule-storage unit that stores rules for determining whether said input/output data is*
17 *invalid data, and determining whether said input/output data is invalid data; and...”*
18 is nonsensical. Specifically, the clause **“determining whether said input/output data**
19 **is invalid data”** is incomplete and it is uncertain as to what the clause is modifying. For
20 the purpose of examination, the examiner presumes the applicant to recite *“...software*
21 *that references a determination-rule-storage unit that stores rules for determining*
22 *whether said input/output data is invalid data; and...”*

All other claims depending upon the above rejected claims are rejected by virtue of dependency.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 15 – 26 and 28 are rejected under 35 U.S.C. 102(e) as being anticipated by Rothermel et al. (Rothermel), U.S. Patent 6,678,827 B1.

Regarding claim 15, Rothermel discloses:

software that acquires input/output data that is input or output over a network that is connected to said computer, or over an externally connected bus that connects said computer with an external device (Rothermel, 7:50-53; 2:15-23);

software that identifies ID information from said input/output data for identifying a user (Rothermel, 7:50-53; 2:15-23; 10:37-46; fig. 5c);

1 *software that acquires at least part of attribute data corresponding to said ID*
2 *information from a user-information-storage unit that stores attribute information for all*
3 *users having authorization to use said computer* (Rothermel, 7:50-53; 2:15-23; 4:49-56;
4 fig. 5c – herein, the system acquires user data such as their network address, group
5 information);

6 *software that references a determination-rule-storage unit that stores rules for*
7 *determining whether said input/output data is invalid data, and determines whether said*
8 *input/output data is invalid data* (Rothermel, 1:56-2:5; 7:50-53; 2:15-23; 11:46-58; 4:49-
9 56; fig. 5c – herein, the system comprises rules for determining valid/invalid data based
10 upon user attributes (e.g. sender, recipient) and content);

11 *and software that stops execution by said input/output data when it is determined*
12 *in said invalid-data-determination that said input/output data is invalid data* (Rothermel,
13 15:48-16:6 - herein, Rothermel discloses that invalid data may be blocked or
14 manipulated thus preventing execution of unsafe data);

15 *wherein said determination-rule-storage unit stores determination rules that*
16 *correspond to user attributes; and software that references, in said determining of*
17 *whether said input/output data is invalid data, said determination rules that correspond*
18 *to attribute information acquired in the acquisition of attribute information determines*
19 *whether said input/output data is invalid* (Rothermel, fig. 1:131; 10:24-11:17; 7:49-53).

20
21 Regarding claim 16, Rothermel discloses:

1 *software that references said user-information-storage unit and determines*
2 *whether the user corresponding to said ID information has authorization to use said*
3 *computer; and software that stops operation by said input/output data when it is*
4 *determined in the determination of authorization that there is no authorization to use*
5 *said computer (Rothermel, 7:39-53; 5:14-17; 10:24-46; fig. 5c);*

6 *wherein said software that determines authorization performs this before it is*
7 *determined whether said input/output data is invalid data, and when it is determined in*
8 *the determining authorization that there is no authorization to use said computer, said*
9 *program causes said computer to not execute at least one of the following: acquiring*
10 *attribute information and said determination of whether said input/output data is invalid*
11 *data (Rothermel, 15:30-45).*

12
13 Regarding claim 17, Rothermel discloses:

14 *software that references a profile-storage unit that stores log data related to said*
15 *input/output data as profiles for each user (Rothermel, 14:13-22 - herein, Rothermel*
16 *discloses that the security software comprises logging means with the ability to*
17 *reference log data (i.e. fig. 1:165),*

18 *and compares input/output data that was acquired in said data-acquisition with a*
19 *normal operation trend of said user to determine whether operation is unusual; and*
20 *software that stops an operation executed by said input/output data in said stopping*
21 *operation executed by said input/output data also when it is determined in said*
22 *determining whether operation is unusual that that operation is unusual (Rothermel,*

1:56-2:5; 7:50-53; 2:15-23; 11:46-58; 4:49-56; 15:48-16:6— herein, the security software compares “input/output” data to the user and/or device’s allowable normal operation (i.e. “normal operation trend”) as defined by the system rules).

Regarding claim 18, Rothermel discloses:

software that executes a process of interrupting a session in said stopping of the operation executed by said input/output data when said input/output data is acquired from a network in said acquisition of input/output data (Rothermel, 17:10-17 – Rothermel discloses interrupting a communication session).

Regarding claim 20, it is rejected, at least, for the same reasons as claims 15 – 18, and furthermore because Rothermel discloses:

software that notifies a terminal being operated by said user or administrator that an operation being executed by said input/output data is an invalid operation when it is determined in said determining whether said input/output data is invalid that said input/output data is invalid data (Rothermel, 16:49-62).

Regarding claims 21 – 26 and 28, they comprise essentially similar recitations as claims 15 – 20, and they are rejected, at least, for the same reasons.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothermel.

Regarding claims 19 and 27, Rothermel discloses stop the execution of data transmission (Rothermel, 2:9-23), and that the security software comprises drivers for executing data transmission (Rothermel, 6:15-19; 5:14-17). However, Rothermel does not appear to explicitly recite stopping the execution of a data transmission driver when it is decided to stop the execution of data transmission. However, the examiner notes that it would have been obvious to one of ordinary skill in the art, in light of logical reason and common sense, to stop the means for executing data transmission (i.e. transmission driver) when it is necessary to stop data transmission.

Furthermore, it is noted that Rothermel enables:

when said input/output data is acquired from an externally connected bus in said acquisition of input/output data (Rothermel, 6:15-19; 5:14-17 – Rothermel discloses blocking the execution of input/output information acquired from a external signal line ("bus")).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

See Notice of References Cited.

A shortened statutory period for reply is set to expire 3 months (not less than 90 days) from the mailing date of this communication.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffery Williams whose telephone number is (571) 272-7965. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

J. Williams
AU 2137
/Emmanuel L. Moise/
Supervisory Patent Examiner, Art Unit 2137